

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP,	:	Master Docket: No. 21-mc-1230-JFC
BI-LEVEL PAP, AND MECHANICAL	:	
VENTILATOR PRODUCTS	:	MDL No. 3014
LITIGATION	:	
	:	
This Document Relates to: <i>All Actions</i>	:	
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**KONINKLIJKE PHILIPS N.V.’S MOTION TO CONVERT THE AUGUST
EVIDENTIARY HEARING TO ORAL ARGUMENT ON THRESHOLD EVIDENTIARY
ISSUES AND TO RESCHEDULE THE EVIDENTIARY HEARING TO SEPTEMBER**

Defendant Koninklijke Philips N.V. (“KPNV”), through its undersigned counsel, respectfully moves this Court for an order converting the August 8, 2023 evidentiary hearing into oral argument on the issue of whether certain categories of documents and other evidence Plaintiffs seek to offer at the evidentiary hearing are irrelevant to the sole issue to be heard at the evidentiary hearing (personal jurisdiction over KPNV) and would be a waste of time and unhelpful to the Court under Rule 403.

After the July 20 conference with this Court, Plaintiffs added nearly 70 new documents to their exhibit list, with the result that more than 420 documents have now been designated as exhibits by Plaintiffs or by KPNV. Many of these documents have never been raised in any of the motion papers on KPNV’s Rule 12(b)(2) motion. Without accounting for the newly added exhibits, these materials will fill more than 20 large binders. KPNV designated many of its exhibits in response to exhibits Plaintiffs designated. It is KPNV’s position that many of both sides’ exhibits are entirely irrelevant to the question of personal jurisdiction over KPNV. KPNV believes that if the Court first addresses these threshold issues (which can be done on a topical basis, instead of on a document-by-document basis), substantial resources—of both the parties,

and more importantly, the Court—will be saved from the significant narrowing (by both sides) of the exhibits to be presented at the evidentiary hearing.

Accordingly, KPNV requests that the August 8 date be converted into oral argument on whether certain of the topics Plaintiffs seek to raise at the evidentiary hearing are relevant to the question of personal jurisdiction over KPNV and/or would be a waste of time under Rule 403, and that the Court reschedule the evidentiary hearing for a date on which the Court is available in September. KPNV further requests that on or before August 1, the parties provide this Court with a list of the topical categories to be argued on August 8, as well as a two-page statement for each specific category from each side.

Particularly in light of upcoming deadlines associated with the evidentiary hearing—including a deadline of this Wednesday, July 26, for the joint and contested exhibit indexes, as well as an agenda for the evidentiary hearing—the parties jointly agreed in meet-and-confer discussions this weekend and today that KPNV would file this motion and that Plaintiffs would file their response within 24 hours. All sides would benefit from the Court’s guidance on this matter, particularly in light of the Court’s comments at last week’s status conference about not burying the Court in “a thousand-plus pages” unless “there’s some compelling reason that each page is pertinent.” July 20, 2023 CMC Tr. at 5-6.

For the reasons set forth in the accompanying Memorandum, KPNV respectfully requests that the Court enter an order granting its Motion.

Dated: July 24, 2023

Respectfully submitted,

/s/ Michael H. Steinberg

Michael H. Steinberg

steinbergm@sullcrom.com

CA Bar. No. 134179

SULLIVAN & CROMWELL LLP

1888 Century Park East

Los Angeles, CA 90067

Tel: 310.712.6670

Tracy Richelle High

hight@sullcrom.com

NY Bar No. 3020096

William B. Monahan

monahanw@sullcrom.com

NY Bar No. 4229027

Elizabeth N. Olsen

olsene@sullcrom.com

NY Bar No. 5621628

SULLIVAN & CROMWELL LLP

125 Broad Street

New York, NY 10004

Tel: 212.558.4000

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2023, the foregoing document was electronically filed with the Clerk of the Court and served upon counsel of record through the Court's ECF filing system.

/s/ Michael H. Steinberg

Michael H. Steinberg

steinbergm@sullcrom.com

SULLIVAN & CROMWELL LLP

1888 Century Park East

Los Angeles, CA 90067

Tel: 310.712.6670